

**MINUTES**  
**UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**UTAH WATER QUALITY BOARD**  
Cannon Health Building Room 125  
288 North 1460 West  
Salt Lake City, Utah 84116  
August 20, 2004  
9:30 a.m.

**UTAH WATER QUALITY BOARD MEMBERS PRESENT**

Rob Adams	Ray Child
Dianne Nielson	Jay Olsen
Mayor Douglas Thompson	Ann Wechsler
Dave Echols	Neil Kochenour
Ron Sims	

**DIVISION OF WATER QUALITY STAFF MEMBERS PRESENT**

Walt Baker, Kiran Bhayani, Randy Taylor, Faye Bell, Jeff Ostermiller, Monique Rodrigue, Brianna Ariotti, Keshia Lukes, Ed Macauley, Matthew Garn, Kari Lundeen, Lonnie Shull, Mike Herkimer, Keith Eagan, Dan Hall

**OTHERS PRESENT**

<b><u>Name</u></b>	<b><u>Organization Representing</u></b>
Fred Nelson	Attorney Generals Office
Lloyd Benson	Parowan City
Ron Smith	Parowan City
Dale Bettridge	Parowan City
Brent Gardner	Alpha Engineering
Don Ostler	Citizen
Johnathan Ward	Zions Bank
Stephen Babb	Citizen
Shannon Babb	Citizen
Leland Myers	CDSD

Chairman Child called the Board meeting to order at 9:40 a.m. He welcomed those in attendance. Mr. Child invited the members of the audience to introduce themselves.

**APPROVAL OF MINUTES OF THE JULY 8, 2004 MEETING**

Mr. Child noted on Page 1, after attendees, it read "Vice Chairman Child" and should read "Chairman Child".

**Motion:**        **It was moved by Mr. Sims and seconded by Mr. Echols to approve the Board minutes of the July 8, 2004 with no corrections being made. The motion was unanimously approved.**

**Presentation of Appreciation Awards:** Mr. Child presented a gift of appreciation to Don Ostler, the former Executive Secretary of the Water Quality Board and Director of the Division of Water. Mr. Ostler recently retired after 32 years of service to the State of Utah.

**Introduction of new staff to the Division of Water Quality:** Mr. Baker asked Kiran Bhayani, representing the Engineering Branch and Randy Taylor the Permits & Compliance Branch, to introduce new staff to the Division of Water Quality.

**Stockholm Junior Water Prize Winner Presentation:** Mr. Baker introduced Shannon Babb of Highland, Utah, a sophomore at American Fork High School. Ms. Babb was Utah's representative of the Stockholm Junior Water Prize contest, which is a prestigious international competition for high school students who conduct research projects in water science. Ms. Babb gave her winning presentation to the Board which involved water quality studies on the Spanish Fork River.

## **RULEMAKING**

**Rulemaking:** Ed Macauley referred the Board to Tab 2 of the packet. Staff is requesting the Board authorization to adopt the changes to rule *R317-100 Utah State Project Priority System for the Utah Wastewater Loan Program*. The rule changes are to provide incentive for communities to become certified as "Quality Growth Communities" by providing special consideration to communities that achieve this status. The proposed rule changes received no comments from the public or other interested parties.

**Motion:**       **It was moved by Mr. Sims and seconded by Dr. Kochenour to authorize staff to proceed with rulemaking for changes to rule R317-100. The motion was unanimously approved.**

**Rulemaking:** Ed Macauley referred the Board to Tab 2, page 2.9 of the packet. Staff is requesting the Board authorization to eliminate rule *R317-103-1, Utah Rural Communities Hardship Grant Program*. The purpose of this rule change was to eliminate an obsolete program. This program pertained to a one-time federal grants program that was developed in 1997 and is independent of the on-going Hardship Grant Program that is capitalized with state, not federal, funds. The funds appropriated under this program have been expended so the administrative rules that govern the program are no longer needed.

**Motion:**       **It was moved by Mr. Adams and seconded by Ms. Wechsler to authorize staff to eliminate rule R317-103-1. The motion was unanimously approved.**

**Rulemaking:** Dan Hall referred the Board to Tab 2, page 2.12 of the packet. Staff is requesting the Board authorization to adopt new standards and protection levels to *R317-6, for Ground Water Quality Protection*. Two separate 30-day comment periods were held, one with the stakeholder and another for public comment. Comments were received from six of the stakeholders, only one stakeholder comment caused a substantive change in the proposed rule which was made. Resulting from the public comment period, only one comment was received which resulted in clarification of the language in R317-6-6.16. Because the Division has incorporated the comments of both the stakeholder and public into the proposed rule changes, staff requested that the Board adopt the proposed rule changes to R317-6.

**Motion:** It was moved by Mr. Echols and seconded by Mr. Sims to authorize staff to adopt changes to rule R317-6. The motion was unanimously approved.

### **OTHER BUSINESS**

**Ensign-Bickford Company Consent Agreement:** Mr. Fred Nelson from the Attorney Generals Office explained to the Board the status of Ensign-Bickford Company agreement. Included in the Board packet on page 3.1 is a summary of calculations used for determining the Natural Resource Damage Claim; fact sheet for the mailing to residents of Mapleton and other interested parties informing them of the process, date and location of the hearing; Natural Resource Damage Claim Consent Order; and Addendum to the Stipulation and consent Order Docket #90-01-A. Included in the packet were two agreements that are out for public comment. They involve a cleanup proposal and a resolution of the state damage claims with respect to Ensign-Bickford Company (EBCo). EBCo has proposed a corrective action plan for the area and we have now reached a proposed damage claim resolution. The reason for the two agreements is that the WQB has jurisdiction and is the final authority of any corrective action approvals. The Executive Secretary makes an initial determination on that and if that is contested it will come before the Board. The first agreement is a Water Quality approval proposal by the Exec Sec for the plan to cleanup the aquifer. Under the Consent Agreement, EBCo will pay the State Natural Resource Damage Trustee \$2.58 million in cash for natural resource damages. This money will be placed in a Trust Fund to be used only to “restore, replace, or acquire the equivalent of the groundwater resources for the benefit of the public” as provided under federal law. EBCo and any purveyor of municipal water can, within the first three years after the agreement is signed, propose a joint project to provide water to the public. With the Trustee’s approval, they can access the \$2.58 million trust to implement the project. After the three-year period, the Trustee or another entity approved by the Trustee may propose a project for use of the Funds as conditioned under federal law. The agreements are between the State and EBCo, and the settlement deals strictly with the loss of the water for public use. The agreements do not settle the claims of any individual or entity that is not directly a party to the agreements. Those individuals and entities retain their rights to deal directly with EBCo to settle any claims. Public review and comment period will run from August 11 to September 24, 2004. Mr. Echols asked if monitoring of the wells be mandatory. Mr. Eagan explained that the state does not monitor private. The private residents have been contacted and informed that they will need to monitor their own wells. The timetable for monitoring wells will vary according to the wells. Some will be quarterly, some monthly, etc.

### **Appointment of Ed Macauley to fill position on the Utah Wastewater Operator**

**Certification Council:** Mr. Baker referred the Board to Tab 3 Page 3.25. In accordance with the Administrative Rules of R317-10-8(B)(4), *Administrative Rules for Certification of Wastewater Works Operators*. DWQ has a representative as a non-voting member who is a senior environmental engineer. Presently Walter Baker sits on the council and due to new added responsibilities, asked that Ed Macauley, who is an engineer and the Section Manager of the Construction Assistance Section, be appointed by the Board to represent DWQ on the Council in his place.

**Motion:** It was moved by Dr. Kochenour and seconded by Mr. Adams to appoint Ed Macauley to fill the position on the Utah Wastewater

**Operator Certification Council. The motion was unanimously approved.**

### **LOAN PROGRAM**

**Financial Assistance Status Report** – Mr. Curnow updated the Board on the “Summary of Assistance Program Funds” as outlined on page 4.1 and 4.2.

**Parowan City request for additional Funding:** Mr. Beavers introduced Mayor Ron Smith, Lloyd Benson, Dale Bettridge of Parowan City, and Brent Gardner with Alpha Engineering. Due to increased costs for the interceptor, Parowan City is requesting an increase of \$899,000 to the \$2,873,000 loan funding previously authorized by the Water Quality Board (WQB) on May 17, 2002 for the relocation of its wastewater treatment lagoons with an accompanying interceptor. The new loan amount will be \$3,772,000 with a repayment term of 20 years and an interest rate of two and three-quarter percent (2.75%). Parowan City is also asking for an increase of \$35,200 in the previously authorized Hardship Grant Design Advance for a total of \$125,000. Staff recommends a loan be made to Parowan City in the amount of \$3,772,000 with a 20-year repayment term and a 2.75% interest rate. Staff also recommends that the previous loan of \$2,873,000 and Design Advance of \$89,800 authorized by the Board on May 17, 2002 be rescinded and replaced with the new loan agreement.

**Motion:**        **It was moved by Mr. Adams to rescind the original loan made on May 17, 2002 for \$2,873,000 and replace with the new loan agreement for \$3,772,000. The motion was seconded by Dr. Kochenour and was unanimously approved.**

### **OTHER BUSINESS (Continued)**

**Discussion of alternatives for construction of new onsite systems in Hooper:** Mr. Macauley Referred the Board to Tab 3 page 3.22. Following the Board meeting at Hooper, the Board asked that staff prepare a discussion to address new onsite systems in Hooper, which extends beyond Hooper in the general sense and ties to any community. Beginning on page 3.22 are some of the alternatives available to restrict construction of new onsite systems. They are: Legislation, Administrative Rule, Municipal Ordinance, Onsite System Management and State Revolving Fund. Ms. Nielson suggested in order for communities to be aware of these options and help to advise them of these options, we could establish a partnership with the local health department to assist with outreach and to present what tools and options are available to them. Mr. Baker agreed this would be beneficial to both the Local Health Departments and communities.

**Development of the selenium standards for the Great Salt Lake:** Mr. Baker directed the Board to page 3.26. The 1972 federal Clean Water Act required states to designate beneficial uses of water bodies and establish water quality standards to protect those beneficial uses. Designated beneficial uses of Great Salt Lake include primary and secondary recreation, aquatic wildlife, and mineral extraction. No numeric water quality standards have been established for the Great Salt Lake. It has thus far been protected by narrative statements and by standards on the fresh waters that feed the lake. At this time, the Utah Department of Environmental Quality, Division of Water Quality is beginning process to establish a site-specific selenium standard for the Great Salt Lake. A steering committee has been established to help with this effort. Page

3.30 shows the organization chart for this committee. The next GSL steering committee meeting will be held on September 21<sup>st</sup> at 3:00 p.m. in Room 114 at the Cannon Health Building and is open to the public.

**Discussion of the future organization of the WQB:** Ms. Nielson explained that there are five Boards in DEQ, three of which have a representative from the Local Health Department (LHD). The Air Quality and Water Quality Boards do not have LHD representation. The Council of Local Environmental Health Administrators has requested that the Board membership be expanded to include a representative from LHDs. Expanding the Board to twelve members would result in an uneven number of members which could present a problem in the case of a tie vote. Mr. Adams commented that there are presently two at large positions on the Board and suggested that one of those be held for a LHD representative. He felt adding two more positions to maintain an odd number would make the Board less manageable. He also stated, considering the issues brought before the Board that having a representative from the LHD would be very beneficial. Mr. Sims stated that he agreed it was very important to have the LHD represented. After some discussion Board members suggested that a representative from the LHD be requested to attend all future Board meetings as a non-voting guest. Ms. Nielson said she would inquire if that arrangement would be acceptable with the LHDs.

#### **NEXT MEETING**

The next Water Quality Board meeting will be held on September 13, 2004 at Ruby's Inn in Bryce Canyon at 1:30 p.m.

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Ray Child, Chairman

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